

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

HUMBOLDT BAYKEEPER, etc.,
et al.,

Plaintiff,

v.

SIMPSON TIMBER COMPANY, etc.,
et al.,

Defendants.

Civil Case No. C 06 4188 CRB

ORDER FOR ENTRY FOR STORM
WATER SAMPLING

Having considered the papers of Plaintiffs concerning a motion to compel discovery and the response of defendant Preston Properties ("Preston"), it is

ORDERED that plaintiffs Humboldt Baykeeper, the Ecological Rights Foundation and Californians for Alternatives to Toxics ("Plaintiffs") may inspect Preston's property on Humboldt Bay at the foot of Del Norte Street in Eureka, California in order to take samples of water caused by rainfall that results in run-off and Preston will make that property available to Plaintiffs for inspection subject to the following conditions:

1. During the period from November 1, 2006 through June 30, 2007, Plaintiffs may enter Preston's property to take samples of water caused by rainfall that results in runoff on three separate occasions. This order will govern those three entries for that purpose.

1 2. Plaintiffs may take samples at any point water flows on or off Preston's property, or
2 of any water pooled and not flowing. ~~In the event that the samples are taken from points different~~
~~than specified in Preston Properties' SWPPP, then the Plaintiffs will provide a complete explanation~~
~~for the rationale for using each different method or location. This document will be provided within~~
~~thirty days of each sampling event.~~

6 3. Preston may take concurrent samples at the same time and at the same location as
7 Plaintiffs take samples. In the alternative Plaintiffs will provide Preston with a "split-sample" so
8 long as Preston provides Plaintiffs with appropriate sample containers and provided Preston takes
9 responsibility for properly preparing and/or preserving the samples, shipping them to the laboratory
10 Preston chooses, and pays for analysis of the samples.

11 4. Plaintiffs will analyze samples taken from Preston's property for the following
12 parameters: dioxins and furans, pentachlorophenol, total petroleum hydrocarbons ("TPH") as motor
13 oil, THP diesel, stoddard solvent, mineral spirits, benzene, toluene, ethylbenzene and total zylenes
14 (collectively, "BTEX"), aluminum, copper, iron, lead, zinc and chemical oxygen demand. The
15 analytical methods to be used, the hold times, and the proper procedures for preserving and shipping
16 the samples are specified in the letter with attachments from William Verick to Thomas Becker
17 dated October 6, 2006. In addition, the analytical methods to be used for dioxins and furans shall be
18 EPA Method 8290. Plaintiffs will specify the analytical methods for mineral spirits and Stoddard
19 solvents.

20 5. Plaintiffs will provide the person Preston designates as its contact person with notice
21 no later than 3:00 p.m. the business day before Plaintiffs believe there will be a storm that will
22 produce rainfall sufficient to cause run-off. Preston agrees to provide Plaintiffs with the name of a
23 contact person. If Preston has failed to provide Plaintiffs with the name of a contact person in time
24 for Plaintiffs to provide the required notice, Plaintiffs may provide such notice to Preston's attorneys.

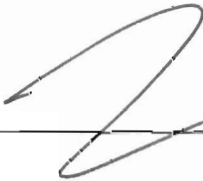
25 6. Plaintiffs have the right to cancel the inspection if rainfall does not occur in amounts
26 sufficient to cause run-off. Preston agrees that Plaintiffs may then reschedule the inspection
27 according to the procedure stated in paragraph 5 above.

1 7. Plaintiffs will enter no buildings, will make no borings, take no soil samples and will
2 use no invasive procedures.

3 8. This order does not pertain to any other inspection request Plaintiffs may make and
4 does not prejudice Plaintiffs' right to make other inspection requests.

5 Dated: 11/2/06

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